

90C01-2402-PL-000006

Wells Circuit Court

Filed: 2/14/2024 8:18 PM
Clerk
Wells County, Indiana

STATE OF INDIANA)
)SS:)
COUNTY OF WELLS) CAUSE NO.

DALE TOWNSEND,)
)
Plaintiff,)
)
vs.)
)
SMITH'S GARAGE & TRUCKING, INC.,)
)
Defendant.)

COMPLAINT FOR DAMAGES

Plaintiff, Dale Townsend, for his Complaint against Defendant, Smtih's Garage & Trucking, Inc., states the following:

I. Parties

1. Plaintiff is a resident of Geneva, Indiana.
2. Defendant is an incorporated entity located in Poneto, Indiana.

II. Factual Allegations

3. Plaintiff was an employee of Defendant.
4. Plaintiff began working for Defendant on September 1, 2016.
5. Plaintiff worked for Defendant as a truck driver.
6. Defendant agreed to pay Plaintiff \$25.00 per hour.
7. Defendant agreed to pay Plaintiff on a weekly basis.
8. Plaintiff worked hours for Defendant that he was not paid his regular wages in the correct amount.

9. Plaintiff worked overtime hours for Defendant that he was not paid time and a half wages.

10. Defendant did not have a good faith basis for failing to pay Plaintiff his regular wages in the correct amount for all hours worked.

11. Defendant did not have a good faith basis for failing to pay Plaintiff his overtime hours at time and a half his regular rate.

12. Defendant willfully failed to pay Plaintiff his overtime hours at time and a half his regular rate.

13. Plaintiff quit his employment with Defendant.

14. Plaintiff separated his employment with Defendant on December 15, 2022.

III. Cause of Action

Count I

Failure Overtime Wages

Pursuant to the FLSA, 29 U.S.C. §201 et. seq.

15. Plaintiff incorporates paragraphs 1 through 19 by reference herein.

16. Plaintiff was an employee of Defendant pursuant to the FLSA.

17. Defendant is an employer pursuant to the FLSA.

18. Defendant had gross revenues of at least \$500,000.00 for the 2017 calendar year.

19. Defendant had gross revenues of at least \$500,000.00 for the 2018 calendar year.

20. Defendant had gross revenues of at least \$500,000.00 for the 2019 calendar year.

21. Defendant had gross revenues of at least \$500,000.00 for the 2020 calendar year.

22. Defendant had gross revenues of at least \$500,000.00 for the 2021 calendar year.

23. Defendant's violations of the FLSA have damaged Plaintiff.

WHEREFORE, Plaintiff prays that the Court enter a Judgment in favor of Plaintiff and against Defendants in an amount to compensate Plaintiff, liquidated damages, prejudgment interest, attorney fees, costs of this action, and for all other relief which is just and proper in the premises.

Respectfully submitted,

WELDY LAW

/s/Ronald E. Weldy
Ronald E. Weldy, #22571-49

Count II
Indiana's Minimum Wage Statute
Alternative Claim

24. Plaintiff incorporates paragraphs 1 through 23 by reference herein.
25. Plaintiff was an employee of Defendant pursuant to Indiana's Minimum Wage Statute.
26. Defendant is an employer pursuant to Indiana's Minimum Wage Statute.
27. Defendant failed to pay overtime wages for all hours over 40 hours in a workweek that Plaintiff worked during the course of her employment.
28. Defendant's violations of Indiana's Minimum Wage Statute have damaged Plaintiff.

WHEREFORE, Plaintiff prays that the Court enter a Judgment in favor of Plaintiff and against Defendant in an amount to compensate Plaintiff, liquidated damages, prejudgment interest, attorney fees, costs of this action, and for all other relief which is just and proper in the premises.

Respectfully Submitted,

WELDY LAW

/s/Ronald E. Weldy
Ronald E. Weldy, #22571-49

Count III
Wage Payment Statute, I.C. §22-2-5 et. seq.

29. Plaintiff incorporates paragraphs 1 through 28 by reference herein.
30. Defendant is an employer pursuant to the Wage Payment Statute.
31. Defendant failed to pay Plaintiff her wages due and owing in the correct amount.
32. Plaintiff has been damaged by Defendant's violations of the Wage Payment Statute.

WHEREFORE, Plaintiff prays that the Court enter a Judgment in favor of Plaintiff and against Defendant for wages owed, liquidated damages, prejudgment interest, attorney fees, costs of this action, and for all other relief which is just and proper in the premises.

Respectfully Submitted

WELDY LAW

/s/Ronald E. Weldy
Ronald E. Weldy, #22571-49

IV. Jury Demand

- 33. Plaintiff incorporates paragraphs 1 through 32 by reference herein.
- 34. Plaintiff demands a trial by jury.

Respectfully Submitted,

WELDY LAW

/s/Ronald E. Weldy
Ronald E. Weldy, #22571-49
Counsel for Plaintiff,
Dale Townsend

Weldy Law
11268 Governors Lane
Fishers, IN 46037
Tel: (317) 842-6600
E-mail: rweldy@weldylegal.com